

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:08-CV-5-D

KENNETH FORTIER,)	
)	
Plaintiff,)	
)	
v.)	ORDER
)	
PRINCIPAL LIFE INSURANCE)	
COMPANY,)	
)	
Defendant.)	

On March 25, 2008, plaintiff Kenneth Fortier filed a motion for summary judgment [D.E. 20]. On May 27, 2008, the court granted defendant's motion to stay consideration of plaintiff's motion for summary judgment "until defendant has completed its evaluation of the Any Occupation Period issue and has issued a final decision on the Any Occupation Period issue under the LTD Policy" [D.E. 34].

On November 6, 2008, the parties filed a joint status report [D.E. 36]. In that report, the parties advised the court that by letter dated August 1, 2008, defendant notified plaintiff that he no longer qualifies for long term disability benefits and that defendant has closed its handling of this claim. Id. Defendant also advised plaintiff that he may appeal within 180 days after receiving the August 1, 2008 letter. Id.

As of the date of the joint status report, plaintiff was considering whether to appeal. Id. "The parties will advise the Court when plaintiff has either exhausted his remedies under Principal's policy or decided not to appeal the prior adverse determination of his claim." Id.

In light of the current record, the court hereby DENIES WITHOUT PREJUDICE plaintiff's motion for summary judgment [D.E. 20]. Plaintiff may file another motion for summary judgment once the administrative case is complete. The parties shall submit a joint status report every 90 days concerning this case and shall advise the court when the administrative record is complete.

SO ORDERED. This 4 day of February 2009.


JAMES C. DEVER III
United States District Judge